

MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE HELD IN THE
ROOM 27, WALLFIELDS, HERTFORD ON
WEDNESDAY 14 MARCH 2012, AT 7.00 PM

PRESENT:

District Council Members:

Councillors M Carver, N Poulton and
M Wood

Town Councils' Representatives:

Mrs E Woods

Parish Councils' Representatives:

Mr J Jones, Mr C Marks

Independent Members:

Mr S Bouette
Mr D Farrell
Mr J Jones
Mr C Marks
Mr J Morphew
Mr T Vickers (Chairman)

ALSO PRESENT:

Councillor P A Ruffles P Ruffles

SUBJECT MEMBER:

Hormead Parish Councillor J Kilby (and his representative
Mrs M Kilby)

OFFICERS IN ATTENDANCE:

Monica Bett - Legal Services

Simon Drinkwater	Advisor - Director of Neighbourhood Services
Jeff Hughes	- Head of Democratic and Legal Support Services

709 APOLOGY

An apology for absence was submitted on behalf of Councillor A L Burlton.

710 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Hormead Parish Councillor J Kilby and his wife to the meeting and also Councillor P A Ruffles who was attending as an observer.

With the Committee's consent, the Chairman advised that the order of business on the Agenda would be altered to allow for consideration of items 8, 9 and 10 before item 4.

711 IT PROTOCOL FOR MEMBERS

The Monitoring Officer submitted a report upon a proposed IT Protocol for Members.

The new protocol was intended to replace an existing Member IT Protocol.

The Monitoring Officer explained that the proposed protocol, appended to his report, concentrated on the important areas of the ownership of IT equipment and insurance and also covered issues relating to passwords, data protection and freedom of information.

The Monitoring Officer confirmed that Member

training would be provided on the subjects of data protection and freedom of information.

The Committee welcomed the updated protocol and agreed to recommend its adoption to Council.

RECOMMENDED – that the proposed IT Protocol for Members, appended to the report now submitted by the Monitoring Officer, be adopted.

712 MINUTES

RESOLVED – that the Minutes of the meeting held on 16 August 2011 be confirmed as a correct record and signed by the Chairman.

713 LOCALISM ACT 2011

The Monitoring Officer submitted a report on the changes to the councillors' standards regime under the provisions of the Localism Act 2011.

Members noted the changes to the system of regulation of standards of conduct for elected and co-opted councillors, particularly in relation to:

- (a) the abolition of the requirement for a principal local authority to establish a Standards Committee;
- (b) the repeal of the Model Code of Conduct and the introduction of a requirement for a local authority to adopt a new code of conduct;
- (c) a new framework whereby a local authority was required to adopt "arrangements" for dealing with complaints of code breaches by councillors;
- (d) the appointment of at least one "independent" person who must be consulted before a local authority makes a finding as to whether or not a

member has failed to comply with a code of conduct's provisions, and

- (e) the abolition of the concept of personal and prejudicial interests and its replacement, under regulations, of "Disclosable Pecuniary Interests".

The Monitoring Officer advised that the Chairman of the Committee had prepared a draft Members' Code of Conduct and framework proposals to administer the new standards regime (both appended to the report now submitted).

The Committee considered the proposed draft code and standards regime in detail, indicating, where necessary, the preferred option where choices existed. For example, the Committee supported the establishment of a "standards" advisory committee whose composition would include independent members with voting rights.

The Committee agreed to request the Monitoring Officer, in consultation with the Committee Chairman, to update the code and standards regime documents now submitted to reflect Members' directions on the issues debated. The updated documents should then be considered at a further meeting of the Committee in April 2012. The Committee, at its April meeting, would then determine its recommendations on this matter for consideration by Council at its meeting on 16 May 2012.

RESOLVED – that (A) the Monitoring Officer, in consultation with the Committee Chairman, be requested to update the code and standards regime documents now submitted, to reflect Members' directions on the issues debated, and

(B) the updated documents referred to in (A) above be considered at a further meeting of the Committee in April 2012 to enable it to determine its recommendations on this matter for consideration by Council at its meeting on 16 May

2012.

714 EXCLUSION OF THE PRESS AND PUBLIC

The Committee considered whether or not to exclude the press and public from the meeting during the discussion of the items of business at Minutes 712 and 713 below on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 7c of Part 1 of Schedule 12A of the Local Government Act 1972. Both the Investigating Officer and the subject member confirmed they had no objection to the business being considered in public. The Committee agreed that these items should be considered in public.

The Committee also agreed that the report (but not the supplementary witness papers) and Parish Councillor Kilby's submission on the complaint did not contain any exempt information or personal data and should therefore be made available for public inspection.

RESOLVED – that (A) the matters detailed in Minutes 712 and 713 below be considered in public, and

(B) as the report (but not supplementary witness papers) and Parish Councillor Kilby's submission on the complaint do not contain any exempt information or personal data, they be made available for public inspection.

715 COMPLAINT IN RESPECT OF A PARISH COUNCILLOR:
REFERENCE HORM/03/2011: CONSIDERATION

The Monitoring Officer submitted a report in respect of a complaint detailing an allegation that Parish Councillor J Kilby had breached Hormead Parish Council's Member Code of Conduct.

The complaint had been referred to the Monitoring Officer for investigation by the Assessment Sub-Committee.

The Committee noted the details of the allegation.

The Committee considered the Investigating Officer's report on the allegation and the conclusion reached.

The Monitoring Officer advised that the Committee was required to consider the Investigating Officer's report and make one of the following findings:

- (a) the matter should be considered at a hearing (of the Committee) conducted under Regulation 18, or
- (b) the matter should be referred to the First-Tier Tribunal (Local Government Standards in England).

The Committee noted the criteria for referring a matter to the First-Tier Tribunal.

It was agreed that the matter should be considered at a hearing of the Standards Committee.

RESOLVED – that, in respect of the complaint referenced HORM/03/2011, the Investigating Officer's findings on the allegation be considered at a hearing of the Committee pursuant to the provisions of Regulation 18 of The Standards Committee (England) Regulations 2008.

716 COMPLAINT IN RESPECT OF A PARISH COUNCILLOR:
REFERENCE HORM/03/2011: HEARING

The Chairman confirmed the meeting was quorate.

The Committee noted the procedure to be followed in determining the matter detailed below.

The Monitoring Officer submitted a report in respect of a complaint concerning Hornead Parish Councillor J Kilby.

The Committee noted that it was required to consider the Investigating Officer's report and make one of the following findings:

- (A) that the Member had not failed to comply with Hormead Parish Council's Code of Conduct;
- (B) that the Member had failed to comply with the Parish Council's Code of Conduct but that no action needed to be taken in respect of the matters considered at the hearing;
- (C) that the Member had failed to comply with the Parish Council's Code of Conduct and that a sanction should be imposed.

The subject Member, through his representative, Mrs M Kilby, confirmed that he did not disagree with any findings of fact detailed within the Investigator's report.

The Chairman drew the Committee's attention to the submission submitted by the complainant on the Investigator's report.

The Investigator presented her report and summarised her findings in respect of the complaint.

The Committee asked questions of both the Investigator and subject Member.

Each Committee Member, at the invitation of the Chairman, confirmed that he/she was satisfied that they had sufficient information to enable them to determine whether or not the subject Member had failed to comply with the Code of Conduct.

The Committee retired to consider its determination. On its return, the Chairman announced that the instance of conduct breach alleged by the complainant had been proven by the findings of fact stated in the Investigator's report.

The Chairman advised that the Committee had noted the vagueness, common in varying degrees to all the witness statements, about what was actually said to constitute the alleged conduct complained of and at what point or points in the agenda of the meeting of the Parish Council. That uncertainty was considered to be understandable given the failure of anyone to react at the time and the delay first in proposing an amendment to the minutes of the meeting and subsequently in agreeing (or disputing) the accuracy of the minute as amended. What was clear was that something untoward had been said. In the circumstances, the Committee had judged it best to accept the subject member's admission that he had used the form of words: 'If this was an MP's expenses then he could have been accused of fraud.' The subject member had acknowledged that the remark had been unwise and ill-expressed.

The Committee concluded that there had been a failure to comply with the Members' Code of Conduct amounting to a breach of Clause 3: a failure to treat others with respect. The offence might well have been a marginal one if in vigorous discussion with and about another member, but the remark was seriously inappropriate when made about an officer and in the documented circumstances of this particular case.

The Committee noted all the submissions made both orally and in writing.

It agreed to impose a sanction requiring Councillor Kilby to write to Mr Marks, apologising for the form of words used and making clear that no imputation of fraudulent conduct had been intended. Further, given that the matter was now a matter of public record, the letter of apology should be copied to the Parish Council and written into its minutes at the first opportunity and should be published in the Parish Newsletter. The letter should also be copied to the Chairman of the Standards Committee.

RESOLVED – that (A) Hormead Parish Councillor J Kilby has failed to comply with his Authority’s Code of Conduct; and

(B) the following sanction, consequent upon the decision referred to in (A) above be applied:

Councillor Kilby to write to Mr Marks, apologising for the form of words used and making clear that no imputation of fraudulent conduct had been intended. Further, given that the matter was now a matter of public record, the letter of apology should be copied to the Parish Council and written into its minutes at the first opportunity and should be published in the Parish Newsletter. The letter should also be copied to the Chairman of the Standards Committee.

The meeting closed at 9.55 pm

Chairman

Date